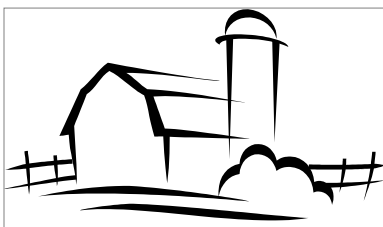

COMMITTEE ON AGRICULTURE

2015
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION



SUMMARY AND REPORT OF DISPOSITION OF LEGISLATION REFERRED TO THE COMMITTEE

Agriculture Committee Members

Senator Jerry Johnson, Chair
Senator Mark Kolterman, Vice-Chair
Senator Dave Bloomfield
Senator Ernie Chambers
Senator Burke Harr
Senator Tyson Larson
Senator Merv Reipe
Senator Ken Schilz

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STATUS REPORT BY BILL NUMBER

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| LB # | Primary Introducer | One-Line Description | Hearing Date | Disposition | Amends Adopted | Amends Pending | Comment |
|--------|--------------------|--|--------------|---------------|-------------------------------------|------------------|--|
| LB 85 | Davis | Increase the statutory maximum brand inspection feet | 1/27/15 | Enacted | AM1112 ER87 | | Davis personal priority designation |
| LB 91 | Johnson | Repeal obsolete provisions relating to scabies, diseased swine and hog cholera | 1/20/15 | Enacted | | | |
| LB 92 | Johnson | Change provisions of the Agricultural Liming Material Act | 1/20/15 | Enacted | AM25 AM89 | | |
| LB 93 | Johnson | Change provisions of the Nebraska Commercial Fertilizer and Soil Conditioner Act | 1/20/15 | Enacted | AM26 ER4 | | |
| LB 128 | Chambers | Eliminate the termination date of the Farm Mediation Act | 2/03/15 | Final Reading | | | |
| LB 175 | Schilz | Adopt the Livestock Growth Act and change provisions of Nebraska Advantage Rural Development Act | 2/10/15 | Enacted | AM492, AM1513 AM1648 ER122 | | Agriculture Committee priority designation |
| LB 176 | Schilz | Change the Competitive Livestock Markets Act | 2/10/15 | Select File | AM495 AM1634 AM1635 ER143 | AM1608 AM1755 | Schilz personal priority designation, failed cloture vote |
| LB 183 | Johnson | Change provision relating to the Grain Dealer Act | 1/27/15 | Enacted | AM445 | | Johnson personal priority designation |
| LB 242 | Stinner | Change provisions of the Dry Bean Resources Act | 2/03/15 | Enacted | AM748 | | |
| LB 262 | Johnson | Eliminate refund provisions under the Dairy Industry Development | | Withdrawn | | | |
| LB 359 | Johnson | Change a fee collected from dog licensees | 2/17/15 | General File | | AM1147 | Provisions/purposes of LB 359 enacted by amendment to LB 360 |

| LB # | Primary Introducer | One-Line Description | Hearing Date | Disposition | Amends Adopted | Amends Pending | Comment |
|-------------|-------------------------------|---|-------------------------|--------------------|--|---------------------------|---|
| LB 360 | Johnson | Change provisions of the Commercial Dog and Cat Operator Inspection Act | 2/17/15 | Enacted | AM1151 AM1193 AM1194 AM1520 ER90 | | Agriculture Committee priority bill designation. Provisions/purposes of LB's 359, 377 & 389 contained in enacted bill |
| LB 377 | Kolterman | Change provisions relating to disposition, care, custody and costs associated with impoundment of dogs and cats | 2/17/15 | General File | | AM1149 | Provisions/purposes of LB 377 enacted by amendment to LB 360 |
| LB 389 | Kuehn | Change license and inspection fees under the Commercial Dog and Cat Operator Inspection Act | 2/17/15 | IPP'd | | | Provisions/purposes of LB 389 enacted by amendment to LB 360 |
| LB 393 | Schilz | Change provisions of the Livestock Animal Welfare Act | 2/24/15 | Held | | | |
| LB 544 | Harr | Adopt the Community Gardens Act | 2/24/15 | General File | | AM697 | Provisions/purposes of LB 544 enacted as amendment to LB 175 |
| LB 558 | Kolowski | Provide an exception for certain food operations under the Nebraska Pure Food Act | 2/24/15 | Held | | AM489 | |
| LB 618 | Larson | Provide for redesignation of districts and changing at-large membership for certain commodity boards | 3/03/15 | General File | | AM792 | |

BILLS ENACTED AND SIGNED BY THE GOVERNOR

LB 85 (Davis) Change the maximum brand inspection fee

Date of Public Hearing: 1/27/15

Date Reported from Committee: 2/04/15

Committee Amendment: none

Other Adopted Amendments: AM1112

Effective Date: August 30, 2015

Davis priority bill

LB 85 amends §54-1,108 of the Nebraska Brand Law to increase the maximum brand inspection fee that may be imposed by the Nebraska Brand Committee for inspections performed under that section. Currently, the statutory maximum fee is 75 cents per head. As introduced, LB 85 proposed increasing the statutory maximum to \$1.25 per head. As enacted, with AM1112 adopted during general file, the statutory maximum brand inspection fee is raised to \$1.10 per head.

LB 91 (Johnson) Repeal obsolete provisions relating to scabies, diseased swine, and hog cholera

Date of Public Hearing: 1/20/15

Date Reported from Committee: 1/21/15

Committee Amendment: none

Other Adopted Amendments:

Effective Date: August 30, 2013

LB 91, brought at the request of the Department of Agriculture, outright repeals the following series of statutory authorities:

- §§54-724.01 to 54-724.02 -- Provisions governing domestic animals affected with scabies;
- §§54-1401 to 54-1411,-- Provisions pertaining to sheep scabies;
- §§54-1513 to 54-1521 -- Hog Cholera Control and Eradication Act;
- §§54-1501 to 54-1512 -- Relating to the destruction of hog cholera diseased swine;
- §§54-1522 to 54-1523 -- Relating to double inoculation against hog cholera; and
- §54-726.04 -- Relating to imports of swine known or reasonably suspected of infection by any dangerous, infectious, contagious or transmissible disease.

LB 92 (Johnson) Change Provisions of the Agricultural Liming Materials Act

Date of Public Hearing: 1/20/15

Date Reported from Committee: 1/21/15

Committee Amendment: AM25

Other Adopted Amendments: AM89,

Effective Date: Sections 1 & 6 - February 1, 2016; remaining sections - August 30, 2015

LB 92 inserts a series of revisions within the Agricultural Liming Materials Act (§§2-4301 – 2-4327) as follows:

Amends §2-4323 which imposes an annual inspection fee paid by retailers based upon tons of ag liming materials sold for use in Nebraska during the previous calendar year. Currently, retailers are to submit an annual statement of tons of product sold for use in Nebraska, by county, within thirty days after expiration of the annual license (i.e. before January 30). The Director is assigned a duty to publish an annual report of ag liming products sold by county in this state. Section 1 of LB 91 would make the following changes to §2-4323 (pursuant to Section 5 of the bill, revisions to this section would become operative February 1, 2016):

- Changes annual retailer reporting of tonnage sold and annual payment of the inspection fee to semi-annual reporting and payment. The section as revised would impose a requirement to report sales during the preceding six month period on or before January 31 and July 31 accompanied by inspection fee payment corresponding to the tonnage reported for the respective 6-month reporting period. As amended by the Agriculture Committee amendment (AM25) adopted on general file debate, the inspection fee imposed for retailer sales is clarified to apply to ag liming products sold in Nebraska.
- Inserts new subsection 2 imposing an administrative fee for late payment of the inspection fee of 25% of the delinquent fee for each month the fee remains unpaid, not to exceed 100% of the delinquent fee. The delinquent fee is defined as a recovery of additional administrative expense incurred in pursuing collection and delinquent fees are directed to the Fertilizer and Soil Conditioners Fund. Additionally, revisions provide that inaccurate reporting is grounds for cancellation of licensure and product registration.
- Renumbers existing subsection (2) as subsection (3). The duty assigned the Director under this subsection to “publish and make available” to specified recipients” an annual report of ag liming product sold in each county is clarified to require that the Director shall annually “make information available” in a format selected by the Director a report of ag liming products sold in the state.

Amends §2-4326 which currently authorizes the Director to order stop-movement of ag liming materials in violation of the Act. Section 3 of LB 92 makes the following revisions to this section:

- Rewrites existing provision for style and clarity, and provides that the Director may exercise stop-movement authority when having reasonable cause to believe products are being sold in violation of the act or regulations; and
- Inserts a new subsection (2) adding new authority for the Director to seek by complaint to a court of competent jurisdiction authority to seize and dispose of non-compliant product.

Amends §2-4327 which currently classifies violations of the Act as a Class V misdemeanor for a first conviction and a Class IV misdemeanor for subsequent convictions. LB 92 effects the following revisions:

- A first violation is reclassified as a Class IV misdemeanor and subsequent violations a Class II misdemeanor;
- Inserts enforcement authorities providing for the Attorney General or county attorney to file appropriate proceedings, and authority of the Director to seek injunction of violating activities. Injunctive remedy is available regardless of availability of remedies and may be granted without bond; and

- Expressly provide that appeal of adverse orders or rulings of the Department shall be pursuant to the Administrative Procedures Act.

LB 93 (Johnson) Change provisions of the Nebraska Fertilizer and Soil Conditioner Act

Date of Public Hearing: 1/20/15

Date Reported from Committee: 1/21/15

Committee Amendment: AM26

Other Adopted Amendments: ER4

Effective Date: August 30, 2015

LB 93 makes a series of revisions to the Nebraska Fertilizer and Soil Conditioner Act, as follows:

- Section 3 of the bill revises labelling disclosures required or allowed on commercial fertilizer product packaging pursuant to §81-2,162.05 to require the “grade” of the product (percentages of total nitrogen, available phosphate, and soluble potash) as verified in the guaranteed analysis. A new defined term for “grade” corresponding to the use of the term in this section is inserted into §81-1,162.02 by section 1 of the bill. §81-2,162.05 is further revised to strike an obsolete reference to “ph”.

As introduced, LB 93 would have inserted a new subsection (5) to §81-2,162.05 that would deem products that contain both fertilizer and pesticide components that meet labeling requirements of the Pesticide Act to be labeled in compliance with the Nebraska Commercial Fertilizer and Soil Conditioner Act. New subsection (5) was stricken by adoption of the Committee amendment (AM26) during general file debate;

- The more accurate term “available phosphate” to refer to phosphorous nutrient content of a product is substituted for existing terminology throughout the act;
- Revisions to §81-2,162.06 made by Section 4 of the bill modify the provisions for delinquent fee by imposing late payment fee of 25% of the delinquent fee for each month the fee remains unpaid, not to exceed 100% of the delinquent fee. The delinquent fee is defined as a recovery of additional administrative expense incurred in pursuing collection and delinquent fees are directed to the Fertilizer and Soil Conditioners Fund;
- Amends §81-2,162.11 which currently assigns a duty to the Director to “publish” an annual report of production and use of commercial fertilizer and soil conditioners, and a summary of official analysis of fertilizer and soil conditioner products. LB 93 would clarify this section to eliminate a requirement that the report be published, but require that the Director shall annually “make information available” in a format selected by the Director and strikes inclusion of production and use data;
- Amends §81-2,162.23 to eliminate a requirement that license applicants provide a social security number;
- Amends §81-2,162.27 to insert new text to provide express harmonization with the Agricultural Liming Materials Act that the Fertilizers and Soil Conditioners Fund is the repository for funds received under the Agricultural Liming Materials Act; and
- The defined term “soil conditioners” in §81-1,162.02 is revised by section 1 of the bill to expressly exclude pesticides as defined in the Pesticide Act and liming materials as defined in the Agricultural Liming Materials Act.

LB 175 (Schilz) Adopt the Livestock Growth Act and change provisions of the Nebraska Advantage Rural Development Act

Date of Public Hearing: 2/10/15

Date Reported from Committee: 3/06/15

Committee Amendment: AM492

Other Adopted Amendments: AM1513, AM1648, ER122

Effective Date: May 30, 2015

Ag Committee priority bill

LB 175 establishes the Livestock Growth Act as a named act. Section 1 of the bill incorporates into the Act existing sections 54-2801 & 54-2802, which provide for the “Livestock Friendly County” designation program, and new sections 3 – 5 of the bill as introduced.

Section 4 creates a new cash fund designated as the “Livestock Growth Act Cash Fund” consisting of appropriations and funds transferred to the fund. As introduced, section 4 designated the fund to receive transfers from the Commercial Feed Act Cash Fund (although the bill did not simultaneously amend the statutory section establishing the Commercial Feed Act Fund to provide for any transfer from that fund). The Committee amendment (AM492) adopted on general file struck authorization of the Livestock Growth Act Cash Fund to receive transfers from the Commercial Feed Act Cash Fund.

Section 3 of the bill authorizes the Director of Agriculture to administer a grant program utilizing funds available in the Livestock Growth Cash Fund. Application for grant assistance would be available to counties that have qualified for designation as Livestock Friendly. Grants could be made for planning activities enumerated in subsection (1)(a) associated with county livestock recruitment and development efforts, and as described in subsection (1)(b) for public infrastructure improvements directly related to a livestock development project. Grant amounts qualifying under subsection (1)(a) are limited \$15,000 and grants awarded under subdivision (1)(b) are limited to the lesser of one-half of the unobligated balance in the fund or \$250,000.

Authority for the Department to adopt rules and regulations relating only to the Livestock Friendly County certification program are stricken from §54-2802 and relocated to section 5 of the bill so that rule and regulation authority will apply to the entirety of the Livestock Growth Act.

LB 175 further amends §77-27-187.02 and §77-27,188 of the Nebraska Advantage Rural Development Act by expanding tax credits offered under the Act for livestock modernization projects designated in §77-27,188(2). Subsection (2) of §77-27,188 sets out distinct qualifying criteria and tax credit benefits for livestock modernization investments. Currently, for calendar years 2012 and thereafter, the Tax Commissioner is directed to no longer approve applications when expected credits from approved projects under subsection (1) and (2) of §77-27,188 total \$1 million in a given year. LB 175 revises the cap in allowable tax expenditure as follows:

- Approval of additional applications is discontinued once approved credits for eligible projects described in §77-27,188 reaches \$1 million for calendar year 2015;
- For calendar years 2016 and each year thereafter, a threshold of cumulative credits allowed after which disapproval of additional applications is established separately for projects described in subsection (1) and subsection (2) of §77-27,188:
 - a) for projects described in subsection (1) – \$1 million,
 - b) for projects described in subsection (2) – \$1.5 million;

AM1648 adopted on select file revised the annual caps for cumulative credits allowed for qualifying livestock modernization investments (those qualifying under subsection (2) of §77-27,188) at \$500,000 for calendar year 2016, \$750,000 for calendar years 2017 and 2018, and \$1 million for calendar year 2019 and each year thereafter.

LB 175 also amended §77-27,188 to revise the maximum allowable credit per project for qualifying livestock modernization investment applying for credits pursuant to subsection (2). Current law provides that such credit shall be calculated at 10% of the qualifying investment and capped at \$30,000 total credit. LB 175 would apply this limitation for applications filed prior to January 1, 2016. Thereafter the amount of credit would be calculated at 10% of the qualifying investment and capped at \$150,000 total credit.

The Agriculture Committee amendment adopted on general file inserted what becomes section 6 of the enacted bill making revisions to §77-27,187.01. This section sets forth definitions utilized in the Nebraska Advantage Rural Development Act. The amendments insert clarification in the definition of “livestock” and “livestock production” to expressly provide that the term does not exclude egg and dairy production.

AM1513 adopted on select file incorporated the provision of LB 544 as amended by the pending Agriculture Committee amendments to that bill, as sections 9 – 15 of LB 175 as enacted. The provisions of LB 544 added to LB 175 exempts application of certain Nebraska Seed Law provisions to seed library activities as defined, directs government entities to seek to make idle public properties available for community gardens and directs the Department of Agriculture to convene a task force to prepare recommendations for increasing the availability of community garden spaces. With adoption of AM1513, LB 175 was enacted with the emergency clause.

LB 183 (Johnson) Change provisions relating to the Grain Dealer Act

Date of Public Hearing: 1/27/15

Date Reported from Committee: 2/20/15

Committee Amendment: AM445

Other Adopted Amendments:

Effective Date: August 30, 2015

Senator Johnson personal priority bill

The primary substantive provisions of LB 183, found in Sections 2 and 4, amend the Grain Dealer Act by confining obligations covered by a grain dealer’s security to first purchaser payment obligations of a dealer to a grower. Additionally, the bill reduces timeframes during which beneficiaries of grain dealer security may perfect claims against the dealer security. To effect these purposes, LB 183 makes the following specific changes:

- Section 2 of the bill amends existing subsection (4) of §75-903 which currently provides that the beneficiaries of the grain dealer security include producers or “owners” of grain filing a valid claim arising from a sale to “or purchase from” a grain dealer. Currently, this section provides that the liability of security in the form of a surety covers purchases “and sales made or arranged” by a dealer. LB 183 would narrow the beneficiaries to producers only and strike coverage for losses arising from purchases of grain from a dealer in both

places. A harmonizing revision of the defined term “grain dealer” is made in §75-902 under section 1 of the bill; and

- Sec. 75-905 is revised by section 4 of the bill to require that to establish eligibility for recourse to grain dealer security, the claimant is required to demand payment for grain within 15 days of delivery (currently 30 days), attempt to negotiate the payment instrument offered by the dealer within 15 days (currently 30 days), and to notify the Public Service Commission within 15 days (currently 30 days) of any apparent loss.

Apart from the primary substantive provisions, LB 183 effects a series of secondary statutory revisions as follows:

- Revises the defined term “grain dealer” in §54-902 to strike subdivision 5(a)(ii) thereby excluding persons from having to meet grain dealer requirement solely for the act of transporting grain into this state for sale. The revision to the definition of grain dealer would also clarify that all feeders, not just custom feeders, are excluded;
- Amends §75-903 to remove a requirement that trucks owned by a grain dealer be affixed with plates issued by the Commission. To offset a small revenue loss resulting from loss of plate fees, this section is further amended to increase the annual grain dealer license fee from \$60 to \$100;
- Additional revisions to §75-903 strike a requirement that vehicles used by dealers to transport grain be equipped with a commercial license plate registered in Nebraska. Revisions to §75-908 under Section 5 of the bill make a harmonizing revision to remove the Carrier Enforcement division of the State Patrol and the DMV from enforcement of the Dealer Act as deletion of the commercial plate requirements for grain dealer trucks make the involvement of these two agencies unnecessary;
- Clarifies the certification of persons preparing reviewed or audited financial statements provided with application for licensure or annual renewal. Current law requires that preparer be a certified public accountant or an accountant holding a permit issued by the Nebraska State Board of Public Accountancy. LB 183 would require only that a firm preparing such statements be an accounting firm “recognized in the United States.”

The adopted committee amendment (AM445) simplifies by specifying only that the submitted financial documents shall be prepared by an independent, certified “firm.” As amended by AM445, LB 183 also omits reference to the credentials of the individual preparing the audited or reviewed statements to avoid interpretation that Sec. 1-170 of the Public Accountancy Act applies to require Nebraska certification of the individual CPA.

- Amends §75-904 to expand the types of documents provided by a dealer to a seller evidencing a sale and delivery of grain to include “receipts, contracts, bills of lading or other written communication” The revisions to this section also strike statutorily prescribed elements of information that are to be included on such documents but retain that the document shall include provisions established by regulation, including notification of requirements to perfect a claim against the dealer security as set out in §75-905.

LB 242 (Stinner) Change provisions of the Dry Bean Resources Act

Date of Public Hearing: 2/03/15

Date Reported from Committee: 2/12/15

Committee Amendment: AM357 (failed)

Other Adopted Amendments: AM748, ER49

Effective Date: May 30, 2015

LB 242 makes a series of revisions to the Nebraska Dry Bean Resources Act (§§2-3735 to 2-3765) to change the rate of promotional assessment and remove refundability of assessments, along with other statutory updates. These changes specifically are as follows:

- Amends §2-3755 which currently provides for a fee as established by the Dry Bean Commission not to exceed 10 cents / cwt. remitted by first purchasers, with 2/3 of the fee deducted from grower payments and 1/3 paid by the first purchaser. LB 242 would sunset the existing statutory maximum fee on July 31, 2015 and impose a prescribed fee of 15¢ / cwt. beginning August 1, 2015. Beginning January 1, 2017, the Commission would have authority to adjust the fee within a statutory maximum 24¢ / cwt.;
- Outright repeals §2-3760. Repeal of this section would remove provisions authorizing and providing procedure for a grower to request refund of the promotional assessment collected at the time of sale;
- Amends §2-3762 regarding the publication of the annual report and its contents. Currently, the statute requires the Commission to “make and publish” an annual report. The change would require that the Commission “prepare and make available” an annual report. Current law also requires the annual report to contain a copy of each contract entered into. The revision would require only that the annual report contain a description of all contracts but make explicit that complete copies of any contract is available to the public upon request. The bill adds the Director of Agriculture and the Clerk of the Legislature as recipients of notification of availability of the annual report; and
- Amends §2-3763 which establishes the Dry Bean Development cash fund and specifies receipts credited to the fund. LB 242 inserts license fees, royalties and other repayments as additional types of receipts to be credited to the fund.

AM357 offered by the Agriculture Committee was not adopted. The committee amendment would have:

- struck section 5 of the introduced bill thereby retaining §2-3762 providing for refundable assessments upon request, and
- inserted a new section amending §2-3753 which enumerates powers and duties of the Dry Bean Commission. This section currently provides that expenditures to influence federal legislation may not exceed 25% of the Commission’s annual budget. AM357 would have limited expenditure for that purpose to 15% of the Commission’s budget and that any such expenditure is confined to support of activities germane to the purpose and mission of the Commission.

Because the committee amendment was not adopted, outright repeal of §2-2762 remains in the enacted version of LB 242. Thus thus authority to request refunds of assessments paid will end on the effective date. However, as amended by AM748 adopted during general file debate, LB 242 as enacted does include restrictions similar to those described in the Agriculture Committee regarding expenditures for influencing federal legislation.

LB 360 (Johnson) Change provisions of the Commercial Dog and Cat Operator Inspection Act

Date of Public Hearing: 2/17/15

Date Reported from Committee: 4/08/15

Committee Amendment: AM1151

Other Adopted Amendments: AM1193, AM1194, AM1520, ER90

Effective Date: December 1, 2015

Ag Committee priority bill. Enacted bill contains provisions/purposes of LB359, LB377 & LB389

LB 360 as introduced inserts a series of clarifying revisions to the Commercial Dog and Cat Operator Inspection Act. The adopted committee amendment (AM1151) struck the original provisions and became the bill. AM1151 retained the original revisions to the Act contained in the introduced bill, but inserted additional revisions and clarifications of existing authorities of the Department to administer and enforce the Act. Revisions to the Commercial Dog and Cat Operator Inspection Act directly relating to LB360 as amended by AM1151 are found in sections 1 and 14-22 of LB360 as enacted, and presented in section-by-section summary of AM1151 as follows:

Sec. 1: Revises §28-1008 providing definitions for terms utilized in Chapter 28, Art. 10. The defined term “law enforcement officer” is revised by excluding inspectors under the Commercial Dog and Cat Operator Inspection Act but expanded to include special investigators appointed as a deputy state sheriff employed by the Department pursuant to §81-201 while acting within the Director’s authority pursuant to the Commercial Dog and Cat Operator Inspection Act.

Sec. 2: Amends §54-625 to incorporate specified sections of AM1151 into the Commercial Dog and Cat Operator Inspection Act.

Sec. 3: Amends §54-626 of the Commercial Dog and Cat Operator Inspection Act by making a series of revisions to defined terms and phrases. The revisions insert new defined terms for “harbor”, “normal business hours”, “operator”, “significant threat to the health and safety of dogs or cats”, and revises the term “premises” to be consistent with definition of the term currently found in §54-628. The definition of “significant threat” is modified from LB 360 as introduced by removing implication that animals must be hemorrhaging before a condition is a significant threat.

Sec. 4: Amends §54-627 which sets forth a requirement of licensure to operate as a commercial breeder or other licensed activity, and establishes application procedures and initial and annual license renewal fees. The Act currently provides for an annual license expiration and annual license fee collected with renewal application. Enacted revisions to §54-627 include the following:

- AM1151 retains the revisions necessary to this section from LB 360 to provide for a non-lapsing license but retain an annual fee. Additional clarifying text is added to provide that any license issued on or before Nov. 30, 2015 remains in effect past expiration unless lapsing or is revoked or surrendered;
- Relocates to subsection (2) that an initial application for licensure shall include a one-time fee of \$125. There is a corresponding deletion of text found in subsection (3)(b) providing for an initial license fee of first-time license applicants of \$125;

- Inserts express authority entry authority for the Department to inspect premises of new license applicants. If animals are not present, the inspection shall be of the applicant's records and facility plans;
- Provides that licenses lapse upon change of ownership;
- Resolves a statutory uncertainty regarding the annual license fee of persons who meet the definition of more than one license category. AM1151 inserts new text in subsection (3)(b) that the operator shall pay one fee according to the primary licensed activity; and
- Revises subsection (5) which currently assigns a duty of a licensee to make licensed premises available for inspection. AM1151 would expand this duty to license applicants or other person the Department has reason to believe is subject to licensure.

Sec. 5: Effects the following revisions to §54-628.

- Removes an unnecessary reference to the Bureau of Animal Industry;
- Inserts clarification in subsection (3) to expand authority to serve notice of violation to any operator, i.e. not confined to licensees or applicants;
- Incorporates a concept introduced in LB 389 to authorize the Department to charge a reinspection fee and mileage for reinspection trips to determine if correction of defects found in previous inspection have been completed, for compliance with a stop movement order, or if return trip is required due to operator's failure to be available for inspection within a reasonable time. The reinspection fee is \$150 and designated as an administrative cost recovery. Any reinspection fees collected are directed to be remitted to the program cash fund;
- Inserts new subsection (4) expressly authorizing the Department to make unannounced inspections during normal business hours and imposing a duty of licensees, applicants and any person acting as an operator to provide the department with contact information and a designated adult who can be contacted to make premises available for inspection in the event the operator is unavailable;
- Expands an express right of entry to include premises of persons believed to be an operator (i.e. not confined to persons complying with licensure if required). A definition of premises is stricken as the term "premises" is inserted as a defined term under section 3 of AM1151;
- Inserts new subsection (8) declaring an express duty of any licensee, applicator or other person believed to be an operator not to hide animals and to provide accurate information regarding the location of dogs and cats; and
- Inserts new subsection (9) stating statutory interpretation that a licensee, applicant's or other operator's refusal to answer door, failure to be available for inspection, or otherwise obstructing the Department's ability to perform inspection is a violation of §54-634 and subject to administrative fine.

Sec. 6: Amends §54-628.01 which sets forth the authority and procedures by which the Department may impose a stop-movement order. Currently, this section authorizes imposition of stop-movement for non-compliance with the Act or regulations, particularly citing unreasonable sanitation. AM1151 expands the conditions that authorize stop-movement to include failure to comply with standards for care, treatment or transportation, operating without a license, interference with the Department, or existence of conditions that without prompt intervention pose a threat to the health and safety of animals. Harmonizing revisions regarding contents and enforcement of a stop movement order are made in the remainder of the section, and includes direction that should conditions posing a threat to health and safety persist, the Department may refer the violator to law enforcement for potential investigation of criminal animal cruelty

violations . The process for a violator to request administrative hearing to contest imposition of the order is revised to incorporate into the requested hearing provisions of §54-632.

Sec. 7: Inserts a new section into the act to expressly provide authority for the Department to serve notice of a hearing to show cause why a cease and desist order, administrative fine or other administrative sanction should not be imposed.

Sec. 8: Amends §54-630 with harmonizing revisions to be consistent with a non-lapsing license.

Secs. 9 & 10: Currently, §54-633 assigns authority to the Department to impose administrative fines and to seek judicial remedies of injunction or restraining order for violations of the Act, its regulations, or orders of the Director. Additionally, subsection (2) of §54-633 provides that if violations of the Act or offenses against animals observed by an inspector pose a “significant threat to the health or safety of dogs or cats”, the Director may instruct the inspector to impound the dogs or cats as provided in cited sections of Chapter 28, Article 10 (crimes against animals), or request any other law enforcement agency to impound animals. Commercial dog and cat program inspectors (when acting within the scope of their duties) are currently included within the definition of “law enforcement officer” pursuant to §28-1008 for purposes of animal cruelty enforcement authorities under Chapter 28, Art. 10. §28-1012 authorizes a law enforcement officer to obtain warrant to inspect, care for or impound animals upon suspicion an animal is being cruelly neglected or mistreated, or abandoned (criminal violations defined by §28-1009), and declares that impounded animals are subject to seizure and court disposition.

AM1151 strikes existing subsection (2) of §54-633 and reinserts the concepts of the stricken subsection in revised form as a new section of the Act. This new section assigns authority to the Director to direct a special investigator (see section 1) to exercise the authorities of a law enforcement officer pursuant to §28-1011 & §28-1012 regarding animal cruelty investigation, or to request other appropriate law enforcement inspect, care for or impound animals, if the Director has reason to believe that violations of the act or other condition posing a threat to the health or safety of animals constitutes cruel neglect or mistreatment, or abandonment. The new section retains instruction that the Director cooperate and coordinate with local authorities, animal shelters public or private, and other entities as appropriate to provide for care and disposition of impounded animals.

The enacted version of LB 360 includes provisions/purposes of LBs 359, 377 and 389 incorporated by AM1193 and AM1194 adopted on general file. AM1193, inserted additional revenue components to support the inspection program under the Commercial Dog and Cat Operator Inspection Act. These provisions contained in Section 12 and Section 15 of LB 360 as enacted, include:

- Increasing a state fee pursuant to §54-603 and collected by political subdivisions that impose a license fee for dogs and cats owned or harbored by persons in the jurisdiction. Fees remitted pursuant to this section are credited to the Commercial Dog and Cat Operator Inspection Program Cash Fund. The fee is currently \$1.00 per animal. LB 360 as amended increases this fee to \$1.25;
- Increasing the annual license fee established in §54-627(3)(a) for all size categories of licensees under the Commercial Dog and Cat Operator Inspection Act by \$25; and
- Inserting a new annual license fee component of \$2 / animal that applies only to commercial categories of licensees.

AM1194 inserted the provisions of LB 377 as amended by the pending Agriculture Committee amendments. These provisions, found in sections 1 – 11 of the enacted version of LB 360, amend Chapter 28, Article 10 by setting forth a judicial procedure for determining disposition of animals seized by law enforcement authorities in the course of an animal cruelty investigation. This process is prescribed in Section 5 of LB 360 with harmonizing revisions to other sections of Chapter 28, Article 10 to conform with Section 5. The reader may refer to the entry for LB 377 elsewhere in this report for a more complete description of the provisions of LB 377 added to LB 360 by AM1194.

BILLS WITH PROVISIONS/PURPOSES INCORPORATED INTO OTHER ENACTED BILLS

LB 359 (Johnson) Change a fee collected from dog licensees

Date of Public Hearing: 2/17/15

Date Reported from Committee: 4/08/15

Committee Amendment: AM1147

Provisions/purposes of LB359 amended into LB 360 as enacted

LB 359 increases a state fee pursuant to §54-603 and collected by political subdivisions that impose a license fee for dogs and cats owned or harbored by persons in the jurisdiction. Fees remitted pursuant to this section are credited to the Commercial Dog and Cat Operator Inspection Program Cash Fund. The fee is currently \$1.00 per animal. LB 359 increases this fee to \$1.25.

The Committee amendment (AM1147) amends §54-627 by inserting the following additional revenue components to support the inspection program under the Commercial Dog and Cat Operator Inspection Act:

- Increases the annual license fee established in §54-627(3)(a) for all size categories of licensees under the Commercial Dog and Cat Operator Inspection Act by \$25; and
- Inserts a new subdivision (3)(f) that would impose an additional annual license fee element of \$2 / animal that applies only to commercial categories of licensees.

The existing schedule of license fees in subdivision (3)(a) of §54-627 currently may be adjusted by the Department following a public hearing provided that the resulting fee for any category may not exceed the amount specified by more than \$100. AM1147 revises existing (but renumbered) subdivision (3)(g) so that the fee adjustment process shall be by rule and regulation in accordance with the Administrative Procedures Act. The Department is also authorized to adjust the per animal license fee element set forth in new subdivision (3)(f), also by rule and regulation, within a statutory maximum of \$3 / animal.

LB359 as amended by the proposed committee amendment was incorporated into LB 360 by adoption of AM1193 to that bill and are found in sections 12 and 15 of LB 360 as enacted.

LB 377 (Kolterman) Change provision relating to disposition, care, custody and costs associated with impoundment of dogs and cats

Date of Public Hearing: 2/17/15

Date Reported from Committee: 4/08/15

Committee Amendment: AM1149

Provisions/ purposes of LB 377 amended into LB 360 as enacted

LB 377 establishes a judicial process (modeled after §54-913 of the Livestock Animal Welfare Act) for determining disposition, assigning financial responsibility, and other remedies for animals impounded pursuant to §54-633 of the Commercial Dog and Cat Operator Inspection Act.

As introduced, LB 377 would insert section 3 of the bill as a new section of the Act. Section 3 would establish the judicial procedure described below for determining disposition of cats or dogs impounded pursuant to §54-633 for violations of the Act or regulations or observed offense against animals that pose a significant threat to the health and safety of dogs or cats.

After impoundment of animals, the Department shall have 7 days to petition for a hearing before the district court, with the hearing scheduled to occur within 10 days of the petition unless otherwise directed by the court. Notice of the hearing is to be provided to seized animal owners or custodians and lien or security holders of record. Upon a finding of probable cause that a violation of §54-633 has occurred, the court may:

- a. Order immediate forfeiture to the Department and authorize ultimate disposition as approved by the court;
- b. Issue an order setting forth conditions to be met to restore custody in the original owner, or with other person having an interest in the animals. Such order may include management actions to reduce the number of dogs and cats and to secure veterinary care and other maintenance requirements; or
- c. Order bond or security, or regular payments to secure the Department's cost of care for animals. The bill directs that the Department shall provide an accounting of use of funds, and provides for subsequent bond or payment hearing application. Any unused proceeds of bond or other security are to be returned to the owner.

If custody is returned to the owner, any residual proceeds of security or payments not utilized for care of the animal while in the agency's custody shall be returned to the owner. The process does not preclude humane destruction as determined necessary by a veterinarian. Procedures for appeal are prescribed. Should the person be found not guilty of criminal charges associated with the animals seized, any proceeds of bond or security, or direct payment for care of seized animals, remaining after actual expenses incurred for care of animals shall be repaid.

The pending committee amendment (AM1149) would have stricken the original provisions and become the bill. The amendment incorporates the judicial disposition process set forth in LB 377 as introduced into Chapter 28, Article 10. Section 4 of AM1149 inserts into Chapter 28, Article 10 the new section containing the seized animal disposition concepts. Section 4 would essentially replace the process for judicial assignment of financial responsibility for the care of seized animals set forth in §29-818(2), which is stricken by the amendment, although certain concepts of 29-818(2) were incorporated as a judicial disposition option in section 3 of LB 377 as introduced and are carried over into section 4 of AM1149. Section 4 differs from section 3 of LB 377 by not specifying that the hearing requested is filed in district court but is heard in the court having jurisdiction of an underlying criminal complaint. Apart from the primary substantive provision inserted by section 4, harmonizing revisions are made throughout Chapter 28, Article 10 to coordinate with this disposition process, to conform internal references, and use of defined terms.

LB 377 as amended by the proposed committee amendment was incorporated into LB 360 by adoption of AM1194 to that bill and are found in sections 1 - 11 of LB 360 as enacted.

LB 544 (Harr) Adopt the Community Gardens Act

Date of Public Hearing: 2/24/15

Date Reported from Committee: 3/09/15

Committee Amendment: AM697

Other Adopted Amendments: none

Provisions/purpose of LB 544 amended into LB 175 as enacted

LB 544 contains two distinct substantive elements. First, the bill seeks to exclude certain cooperative activities that facilitate seed saving and sharing, popularly referred to as seed libraries, from packaging and labeling regulations under the Commercial Seed Law. Secondly, the bill establishes the Community Gardens Act with the purpose of promoting the availability and utilization of idle public and private properties as gardening spaces available to the public and to study additional means to facilitate community gardens. Specifically, LB 544 effects the following:

Section 1 of bill insert revisions to §81-2,147.01 which defines terms utilized throughout the act. The defined term “sale” is revised to confine the acts of barter and exchange encompassed within the term to include only barter and exchange in the ordinary course of business, and to expressly exclude various acts of seed transfer or distribution that are not commercial in nature. Section 1 also inserts a new defined term for “seed library” to mean a non-profit governmental or cooperative organization that facilitates donations of seeds for purpose of seed saving, education and free access to seeds. Section 2 of the bill amends §81-2,147.05. This section enumerates exclusions to the packaging and labeling standards that apply to commercial seeds as provided elsewhere in the Act. LB 544 adds seed libraries as an additional exclusion.

Sections 3 – 7 of LB 544 establish the Community Gardens Act as a named act with the following elements by section:

Section 4 articulates legislative intent and findings, generally describing societal benefits in community gardens and declaring legislative policy and intent to facilitate proliferation of community gardening opportunities.

Section 5 defines terms utilized throughout the act.

Section 6 authorizes state agencies or municipalities to permit use of vacant public properties for use as community gardens by community organizations. Agencies and municipalities are expressly authorized to condition utilization of public properties for that purpose upon the organizations accepting liability, to exercise rulemaking authority to define application procedures and requirements, to allow use of hydrants to supply water and to provide water service at reduced rates. Agencies or entities would have 60 days to respond to applications received and 120 days from receipt of application to make a final determination.

Section 7 assigns a duty to the Director of Agriculture to establish a community gardens task force on or before August 1, 2015 to develop additional means to expand community garden establishment, to encourage coordination with community food assistance programs, and to enhance the community benefits of community gardens. In the process of reaching recommendations in these areas, the task force is expressly authorized to consider recommendations relating to governmental interventions including conservation easements in public lands, acquisition of development rights, zoning and other land use planning, and other

activities. A preliminary task force report would be provided no later than December 15, 2015 and a final report no later than December 15, 2016.

The committee amendment (AM697) retains the purpose of LB 544 to exempt seeds exchanged through seed library activities from labeling and content/quality verification provisions of §81-2,147.02 and §81-2,147.03 of the Nebraska Seed Law but in a modified manner. The amendment would not alter the existing definition of sale but adds new text expressly providing that the term does not include exchanges of seed within a seed library. The amendment further replaces the definition of “seed library” with a revised version that limits the term to mean an organization or activity providing for exchange of seeds of open pollinated, public domain plant varieties where seed possession, use, donation or exchange of seed is free of any charge or consideration.

Additionally, the amendment strikes reference to mechanisms to encourage transfer of development rights as an element of recommendations that the task force convened by the Director pursuant to Section 7 is authorized to consider.

LB 544 as amended by the pending committee amendment was incorporated into LB 175 by adoption of AM1513 to that bill and its provisions are found in sections 9 – 15 of LB 175 as enacted.

BILLS ADVANCED BUT NOT ENACTED

LB 128 (Chambers) Repeal the Black Tailed Prairie Dog Management Act

Date of Public Hearing: 1/23/15

Date Reported from Committee: 2/12/15

Committee Amendment: none

Other Adopted Amendments: none

Pending Amendments: none

LB 128 outright repeals §§23-3801 through 23-3810 which collectively are cited as the Black-tailed Prairie Dog Management Act. The Act imposes an affirmative duty upon landowners and managers within a county that has adopted a black-tailed prairie dog management plan to prevent uncontrolled spread of colonies of black-tailed prairie dogs to neighboring properties. The Act sets forth minimal elements of county management plans and procedures and standards by which counties may assume and implement authorities under the Act to compel landowner responsibility.

§81-2,236 authorizes the Director of Agriculture to cooperate with USDA-APHIS for control and management of predators, rodents and other wildlife injurious to livestock, game and human health. The bill would strike express text that this authorization includes the control of black-tailed prairie dogs.

LB 128 advanced to final reading but failed to reach a final vote within time allotted for debate. The bill remains on final reading with a pending motion to recommit to committee.

LB 176 (Schilz) Change provisions of the Competitive Livestock Marketing Act

Date of Public Hearing: 2/10/15

Date Reported from Committee: 2/12/15

Committee Amendment: AM495

Other Adopted Amendments: AM1634, AM1635, ER143

Pending Amendments: AM1608, AM1755

Senator Schilz priority bill.

LB 176 narrows a restriction under the Competitive Livestock Markets Act that prohibits livestock packers from owning or feeding livestock. LB 176 would in effect remove the restriction on packers owning swine during production stages. The bill also inserts definition of acts that constitute “indirect” violation of this prohibition.

The primary substantive provision of LB 176 is found in section 2 which amends §54-2604 of the Competitive Livestock Markets Act. This section currently prohibits packers from “directly or indirectly” engaging in the feeding and keeping of livestock for the production of livestock or livestock products, except for incidental feeding just prior to slaughter. Livestock is defined by §54-2602 to mean cattle and swine. LB 176 strikes the existing provisions and rewrites the prohibition in new subsection (1) by defining a general prohibition against packers engaging in livestock production to include the elements of a) directly or indirectly owning, controlling or operating a

livestock operation in this state. (“Livestock operation” is inserted as a new defined term in §54-2602), and b) directly or indirectly being engaged in the ownership, keeping or feeding of livestock except ownership and feeding for the five days preceding the process of slaughter.

New subsection (2) provides that the general prohibition in subsection (1) does not apply to the ownership of swine by a packer provided ownership is confined to swine raised for slaughter at the packer’s facilities.

New subsection (3) inserts definition of “indirect” ownership, control or operation of a livestock operation, to include the elements of:

- a) receiving or sharing revenue derived from a livestock operation or intermediary contractor;
- b) obtaining a benefit of feeding or maintaining livestock, or assuming mortality risk; or
- c) loaning money, acting as a surety or otherwise financing a livestock operation or an intermediary contractor. Financing is clarified to exclude contract terms that provide for an unsecured ledger balance or unsecured loan or open account for the purchase of feed provided the amount of unsecured balance does not exceed \$250,000.

Section 5 of the bill outright repeals §54-2603 which contains legislative intent language on the topic of vertical coordination and integration in livestock production that is in conflict with the changes made in section 2 of the bill. Existing text in §54-2603 stating legislative findings and purposes relating to state level mandatory price reporting are relocated to §54-2627.01 by section 3 of the bill. §54-2627.01 provides a mechanism for orderly implementation of state price reporting in the event the federal preemption of state price reporting laws were ever lifted.

The committee amendment adopted on general file (AM495) strikes original section 2 and substitutes a revised section 2 with the differences as explained below.

- Clarifies that the permitted exemption in subsection (2) to the packer ownership provision as defined by subsection (1) is only for the element of ownership of swine as described in subsection (1)(b), not the entirety of subsection (1). The revision is intended to remove any ambiguity, and be consistent with intent, that the exemption applies only to the ownership of swine, and does not encompass ownership of livestock production facilities;
- Expands the period of ownership and feeding by packers incidental to slaughter that is excluded from the prohibition from five days to fourteen days;
- Clarifies that the activities included as “indirect” violation of the packer restriction declared in subsection (1) refers to both elements of prohibited activity, i.e. ownership of livestock operations and ownership of livestock;
- In subdivisions (3)(a)(b) & (c), inserts clarification that the elements precluded to packers as indirect ownership of operations or engagement in livestock production does not preclude transactions or contractual relations where the packer is not involved in management of the operation;
- Subdivision (3)(b) is revised to omit an ambiguous phrase “obtaining the benefit of production . . .” The amendment is intended to avoid ambiguity that the bill precludes marketing contract relationships not precluded under current law or under LB 176 solely because benefits may motivate or accrue to contracting parties (e.g. surety of supply, price risk management, etc.); and
- Subdivision (3)(c) is revised to list types of forward marketing arrangements between producers and packers that are excluded from being included in the prohibited act of “loaning money, guaranteeing, acting as a surety for or otherwise financing an operation.”

The bill as introduced excluded forward marketing relationships that provide for certain unsecured account balance arrangements, or unsecured advances for feed purchase provided such advance does not exceed \$250,000. AM495 removes specification that such advance or ledger balance is confined to finance of feed purchases. The amendment further removes any threshold for such account balance if the balance or advance is unsecured by collateral of the borrower, and sets a threshold of \$1 million balance or account deficit if secured by collateral of the borrower.

AM1634 adopted on select file amends the defined term “Contract Swine Operation” contained in revisions to §54-2602 made by section 1 of the bill. As introduced, the term is defined as a livestock operations producing swine owned by packers according to “an oral or written agreement.”

AM1634 excludes operations producing packer-owned livestock by “oral” agreement with intent that production contract relationships be by written agreement only. AM1635 also adopted on general file further amended the definition of “contract swine operation” to exclude contractual relationships with terms that impose a confidentiality clause, i.e. that prohibits a producer from disclosing contract terms to a producer’s financial or legal advisor, or other persons.

LB 176 failed to sustain a cloture motion and remains pending on select file.

LB 618 (Larson) Provide for redesignation of districts and changing at-large membership for certain commodity boards and commissions

Date of Public Hearing: 3/03/15

Date Reported from Committee: 3/10/13

Committee Amendment: AM792

Other Adopted Amendments: none

Other Pending Amendments: none

The primary substantive provisions of LB 618 are found in Sections 3, 12, and 17 of the bill. These sections insert new provisions into each of the Nebraska Wheat Resources Act, the Nebraska Corn Resources Act, and the Dry Bean Resources Act that delegate authority to the governing boards of each promotion program to redraw membership districts and designate at-large membership as necessary to maintain equitable representation of growers on the commodity boards. Current membership on the governing boards of these commodities programs, and that for grain sorghum, are currently statutorily prescribed to provide for the majority of board membership to be selected from grower districts defined by statute where each district is intended to encompass roughly equal production of the commodity, and a minority of at-large members selected to represent growers statewide.

Each of sections 3, 12, and 17 similarly define triggering conditions for exercise of the authority, namely a determination that current statutorily defined membership is incompatible with equitable representation due to changing geographic distribution of the underlying crop, changing marketing patterns or lack of availability of qualified individuals to serve. Under such circumstances, the Boards would be authorized through rule and regulation to change district configurations and at large membership as appropriate to restore equitable representation. The remainder of statutory sections amended by the bill include only harmonizing revisions or non-substantive reviser’s amendments.

The committee amendment (AM792) pending on general file replaces original sections 3, 12, and 17 with an alternative process for periodically reviewing the composition of commodity development program governing boards and for the boards to propose and implement revisions. The amendment

inserts additional statutory guidance under which governing boards may exercise this authority and retains a mechanism for legislative oversight. These procedural additions in the pending Agriculture Committee amendment include the following:

- A duty is assigned to each of the relevant governing boards that on or before December 1, 2015, August 1, 2020 and on or before August 1 each fifth year thereafter, the boards shall provide a report of crop acreage and production by membership district, a description of marketing patterns, and any assessment of marketing and production trends. The Boards would provide the Director of Agriculture and Chair of the Agriculture Committee of the Legislature with notice of the availability of this report.
- Specifies that compositional revisions may include revision of demarcation of membership districts, increasing or decreasing the number of board members selected by grower district, increasing or decreasing at-large members, or a combination of these. The committee amendment inserts additional guidance that existing members may be reassigned to a redesignated district or at-large membership as necessary but that no plan to revise composition may eliminate a member prior to expiration of his or her term.
- Provides that when any plan for compositional revision is developed by a governing board, the board shall provide a description to the Director of Agriculture and Chair of the Agriculture Committee on or before November 1 of the year preceding the year the revisions would be implemented. Such plan would not take effect until ninety days after the completion of the following legislative session.

A new section 19 is added to incorporate similar provisions into the Grain Sorghum Resources Act.

BILLS HELD BY THE COMMITTEE

LB 393 (Schilz) Change provisions of the Livestock Animal Welfare Act

Date of Public Hearing: 2/24/15

LB 393 makes a series of substantive revisions to existing sections of the Livestock Animal Welfare Act (§§54-901 through 54-913) as follows:

- The defined term “cruelly neglect” in §54-902 is amended by section 1 of the bill. Cruelly neglect is currently defined to include failure to provide feed, water or other care “as is reasonably necessary for the livestock animal’s health.” LB 393 revises the definition to mean failure to provide feed, water and other care “consistent with customary animal husbandry practices.”
- Amends §54-903 which classifies the acts of reckless abandonment or cruel neglect of a livestock animal to be either a Class III misdemeanor or Class IV felony offense. This section also provides that a first conviction for cruel mistreatment is a Class I misdemeanor, and a Class IV felony for any subsequent offense. LB 393 provides that an act or omission that is cruel neglect or abandonment of multiple animals managed as a herd is a single offense.
- Amends §54-909 which currently provides discretion to a sentencing court to, by order, bar a person convicted of an animal cruelty offense from owning or possessing animals. In the case of a felony conviction, in addition to any other penalty, the sentencing court shall bar ownership for up to 15 years. If the conviction is for an offense classified as a misdemeanor, the sentencing court may bar ownership/possession for up to 5 years. LB 393 would limit the sentencing court’s discretion to order a person convicted of a misdemeanor charge for cruel neglect, abandonment or mistreatment to a second or subsequent offense.
- Incorporates section 5 of the bill as a new section within the Act. This section would authorize the Director of Agriculture to commission veterinarians trained in animal cruelty investigation available to assist and advise local law enforcement in assessment, care and disposition of animals, collection and preservation of evidence, and to represent the State Veterinarian with respect to state livestock health interests that might be present. Such agents would receive compensation of \$150 per day plus reimbursement of expenses incurred in providing veterinary services. Section 5 expressly provides that nothing in that section is to be construed as assigning or requiring or authorizing the Director to assume any responsibilities for livestock animal cruelty enforcement, or responsibility for care or disposition of livestock animals outside of the Director’s livestock health authorities.

LB 558 (Kolowski) Provide an exception for certain food operations under the Nebraska Pure Food Act

Date of Public Hearing: 2/24/15

LB 558 amends §81-2,245.01 of the Nebraska Pure Food Act by expanding an existing limited exclusion of private homes from the definition of “food establishments” for purposes of the Act. Subsection (6) currently excludes private homes when preparing non-potentially hazardous food for

sale or service at a charitable fundraiser, or for sale at a farmers market, provided disclosure is given that the food is not prepared in a licensed and inspected kitchen.

LB 558 would expand the exclusion of private homes preparing non-hazardous food products for sale indirectly to the final consumer through a third-party food establishment provided:

- a. the operation registers with the Department and complies with applicable food safety requirements;
- b. the consumer is provided notice by placard or packaging disclosure that the food items are not prepared in a licensed kitchen;
- c. the operation does not exceed \$50,000 in annual sales;
- d. the operation does not employ more than 1 fte excluding family or household; and
- e. the operation and employees have completed online food handler training. The Department is assigned a duty to provide online food handler instruction by December 31, 2015.

BILLS INDEFINITELY POSTPONED

LB 389 (Kuehn) Change license and inspection fees under the Commercial Dog and Cat Operator Inspection Act

Date of Public Hearing: 2/17/15

LB 389 changes the amount or calculation of initial and annual license fees, and imposes a re-inspection fee when follow-up inspections are required. Specifically, LB389 makes the following changes within the Commercial Dog and Cat Operator Act:

- Revises the manner which the annual license fee for various license categories are calculated. §54-627(3)(a) of the Act currently provides for a graduated annual license fee schedule that changes a progressively higher fee as the size of the operation increases, beginning at \$150 for ten or fewer animals, \$200 for 11 to 50 animals, and thereafter in increasing amounts of 50 animal size category increments up to \$2,000 for licenses having more than 500 animals. LB389 retains the \$150 annual license fee for licensees having 10 or fewer animals but strikes the remainder of the existing fee schedule, substituting a calculation of the license fee for licensees having 11 or more animals to be \$150 plus \$10 for each additional dog or cat numbering more than 11;
- Increases the initial license fee imposed under §54-627(3)(b) from \$125 to \$150; and
- Revises §54-628 by inserting new text that imposes a re-inspection fee of \$150 plus mileage in the event that follow-up inspections are required to verify deficiencies in a previous inspection are rectified.

Portions/provisions of LB 389 were incorporated into LB 360. Provisions providing for a re-inspection fee were added to LB 360 by AM1151. A \$2 per animal fee for commercial licensees was incorporated as an element of the annual licensure fee by adoption of AM1193 to LB360.

BILLS WITHDRAWN BY THE INTRODUCER

LB 262 (Johnson) Eliminate refund provisions under the Dairy Industry Development Act

Date withdrawn: 2/10/15

The Federal Dairy Promotion and Research Order (7 CFR 1150) imposes an assessment of 15¢ / cwt of milk sold commercially in the U.S. 7 CFR 1150.152 allows a credit against the federal assessment not to exceed 10¢ / cwt for voluntary or mandatory assessments paid to a qualified state dairy promotion association. Such qualified state associations are also designated as collecting entities for the federal assessment and typically collect 15¢ / cwt but remit only the portion of the amount collected above the amount that qualifies as a credit against the federal assessment. The remainder is retained for promotional activities engaged in by the state association.

A mandatory state assessment of 10¢ / cwt is imposed pursuant to §2-3958 of the Nebraska Dairy Industry Development Act. §2-3957 currently allows individual producers to elect that the state assessment be refunded to a qualified state dairy promotion association in another state or that the entire amount of that producer's assessment be remitted to the federal program. Section 2 of LB 262 would have eliminated this election in §2-3957 if not designated prior to January 1, 2015. Harmonizing revisions are made in §2-3949 and §2-3959 by sections 1 and 3 of the bill.

REPORT ON THE PRIORTIZING OF INTERIM STUDY RESOLUTIONS

Pursuant to Rule 4, Section 3(c)

COMMITTEE: Agriculture

DATE: May 29, 2015

The following resolutions were referred to the Committee on Agriculture. The committee has prioritized the resolutions in the following ranking:

| <u>Study Category</u> | <u>Resolution No.</u> | <u>Subject</u> |
|------------------------------|------------------------------|--|
| 1 | LR 212 | Examine utilization of checkoff program authority to influence federal legislation |
| 1 | LR 214 | Examine means to implement LB941 Dairy Growth Study recommendations |
| 1 | LR 217 | Interim study to complete the work of the LR309 interim (2013) study to examine means to mitigate conflicts arising from herbicide drift and sensitive crops |
| 1 | LR 270 | Study the fee structure of the Nebraska Brand Committee |
| 2 | LR 213 | Interim study to develop a reference manual to describe and compare elements of commodity development programs |
| 2 | LR 215 | Examine feasibility of establishing a program modeled after the Buffer Strip Program for pesticide drift abatement |
| 2 | LR 218 | Examine utilization of in-store transfers to satisfy direct delivery obligations |
| 3 | LR 216 | Examine alternative means to indemnify for damages associated with pesticide drift |
| 3 | LR 322 | Study the potential for expansion of fruit and product gleaning in Nebraska. |

- 1 – Committee Priority – Staff prepare research report, interim hearings, task force or combination of committee activities
- 2. – Chairman Priority – Staff to compile information and prepare memoranda
- 3. – Senator Priority – Staff to assist individual senator's research of issue

2015 Session Interim Study Resolutions Referenced to the Agriculture Committee

LR 212 (Johnson) **PURPOSE:** The purpose of this resolution is to examine the utilization of authority given to various state commodity development programs to make expenditures for the purpose of influencing federal legislation. The goals of this study include:

- (1) Developing an understanding of the types of federal legislative issues and appropriations that are germane to the role and mission of the state commodity promotion programs; and
- (2) Gathering information regarding the extent and manner in which state programs participate in the federal legislative process and the nature and amount of expenditures for that purpose.

LR 213 (Johnson) **PURPOSE:** The purpose of this resolution is to study development of a reference manual for the state commodity promotion programs, the federal beef, pork, and soybean programs, and any other federal commodity programs that are significant to Nebraska agriculture. It is the goal of this study to identify and describe key structural elements of such programs and to provide a graphic and narrative description and comparison of these program elements.

LR 214 (Johnson) **PURPOSE:** In accordance with LB 941 enacted in 2014, the Department of Agriculture produced the Dairy Growth and Development Study Report. The purpose of this resolution is to review the information in the Dairy Growth and Development Study Report and to study the following:

- (1) Developing options to implement key recommendations of the report;
- (2) Supporting public and private efforts to promote growth of the state's dairy industry; and
- (3) Exploring interventions available to state government to stimulate private investment in dairy production and processing in Nebraska.

LR 215 (Johnson) **PURPOSE:** The purpose of this resolution is to study implementation of the recommendations of the interim study report produced as a result of LR 309 (2013). The report recommended that the Agriculture Committee explore the value and feasibility of creating a program modeled after the buffer strip program created by the Buffer Strip Act to enlist landowners in the vicinity of specialty or sensitive crops experiencing frequent herbicide drift damage to adopt drift or volatility avoidance and integrated management practices. It is intended that the study will also examine the potential for such a program to access and coordinate with federal funding initiatives to restore and enhance butterfly and pollinator habitat in agricultural settings through the federal Conservation Reserve Program and other federal initiatives.

LR 216 (Johnson) **PURPOSE:** The purpose of this resolution is to study implementation of a specific study recommendation of the interim study report produced as a result of LR 309 (2013). The report recommended that the Agriculture Committee investigate whether alternative models for compensating specialty or sensitive crop growers incurring herbicide drift damages are feasible and practical and whether the models would improve upon existing means for compensating specialty or sensitive crop growers for losses due to herbicide drift incidents..

LR 217 (Johnson) **PURPOSE:** The purpose of this study resolution is to complete the work of the LR 309 interim study conducted in 2013 to investigate ways to avoid and mitigate conflicts arising from

herbicide and drift damage to sensitive crops. The study shall seek to incorporate information gathered from related interim studies and finalize recommendations for the consideration of the Legislature.

LR 218 (Johnson) PURPOSE: The Grain Warehouse Act creates an in-store transfer to document the establishment of a post-direct delivery storage position in favor of producers and other grain owners as a means of satisfaction of a direct delivery obligation of the warehouse licensee to a producer or other grain owner. The in-store transfer method was created by LB 439 (Laws 2005).

The purpose of this resolution is to examine the utility of the in-store transfer method by producers and grain warehouses as an option to meet direct delivery obligations. The goal of this study is to gain an understanding of the extent to which in-store transfers are used in direct delivery transactions, the constraints of their use, and the extent to which producers and warehouses are aware of such transfers. The study shall further examine the extent to which the producer community is aware of the marketing risks and different statutory provisions governing producer recourse to security and other protections that apply in direct delivery transactions.

LR 270 (Schilz) PURPOSE: The purpose of this resolution is to conduct a comprehensive study and review of the fee structure of the Nebraska Brand Committee which includes, but is not limited to, per head inspection fees, surcharge fees, recording fees, grazing permit fees, registered feedlot fees, registered dairy fees, and other fees. The study shall examine the history and appropriateness of the current fee structure including:

- (1) The rationale behind the current fee structure;
- (2) The functions and services provided for the fees assessed to different segments of the beef industry;
- (3) The last time the fee structure was updated; and
- (4) A comparison of Nebraska's brand inspection fee structure with other states.

The study shall also examine possible statutory changes of the fee structure and the rationale for any proposed changes as well as technological upgrades and other innovations to assist the Nebraska Brand Committee in modernizing services. The committee may solicit comments, suggestions, and recommendations from appropriate stakeholders.

LR 322 (Kolowski) PURPOSE: The purpose of this resolution is to study the potential for the expansion of fruit and produce gleaning in Nebraska. Gleaning is the act of collecting post-harvest crops from farmers' fields and orchards after the crops have been commercially harvested and it is not economically feasible to harvest further. Gleaning can also occur at farmer's markets when unsold fruit and produce remains. The study shall include, but not be limited to, an examination of the following:

- (1) Data compiled by the Department of Agriculture relating to the number of fruit and produce producers in Nebraska;
- (2) The estimated amount of edible crop left in the field or that does not make it to market;
- (3) Research regarding gleaning as an effective tool in providing fresh fruit and produce to food deserts and reducing food waste;
- (4) Research regarding the environmental impact of food waste that is placed into landfills;
- (5) The best practices in Nebraska, other states, and countries to increase opportunities for gleaning;
- (6) Developing performance goals for increasing gleaning opportunities in Nebraska; and
- (7) Any legislation needed to incentivize the use of best practices by producers to support gleaning opportunities and help reduce hunger in both rural and urban communities.

The study committee shall work with interested persons including farmers and other producers, food pantries, gleaning organizations, the Department of Agriculture, and other experts on fruit and produce production and harvesting effective gleaning practices, and current food waste reduction best practices.